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The Honorable Ronald B. Leighton



05-CV-05671-ORD

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CLERK U.S. DISTRICT COURT	
WESTERN DISTRICT OF WASHINGTON AT TACOMA	
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UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON
 AT TACOMA

10 EQUAL EMPLOYMENT OPPORTUNITY
 11 COMMISSION,

No. C05-5671 RBL

12 Plaintiff,
 13 and

PROPOSED SETTLEMENT AGREEMENT
 AND ORDER DISMISSING ACTION

14 JANICE LOWELL,

15 Plaintiff in Intervention,

16 LABOR READY, INC.,

17 and

18 IFA NURSERIES, INC.,

19 Defendants.

I. INTRODUCTION

20 1. This action originated when Janice Lowell filed a charge of discrimination with
 21 the Equal Employment Opportunity Commission ("EEOC" or "Commission") on July 8, 2004.
 22 Lowell alleged that defendants Labor Ready, Inc., Labor Ready Northwest, Inc. ("Labor Ready")
 23 and IFA Nurseries, Inc. ("IFA" or collectively "Defendants") discriminated against her based
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 27 PROPOSED Settlement Agreement and
 28 Order Dismissing Action - 1
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1 upon her sex (female) in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §
 2 2000e, et seq. ("Title VII"), when Lowell was subjected to sexual harassment and retaliation.

3 2. On July 5, 2005, the EEOC issued a letter of determination with a finding of
 4 reasonable cause to believe that IFA and Labor Ready violated Title VII.

5 3. The Commission filed its complaint against IFA on September 30, 2005 in the
 6 United States District Court for the Western District of Washington and its complaint against
 7 Labor Ready on October 13, 2005.

8 4. Labor Ready filed an answer to the Commission's complaint on November 18,
 9 2005. IFA filed an answer to the Commission complaint on December 23, 2005. Both answers
 10 denied the allegations of discrimination in the EEOC's complaint. The cases were consolidated
 11 on December 5, 2005.

12 5. Lowell filed motions to intervene and was granted intervention.

13 6. The parties want to conclude fully and finally all claims arising out of the charge
 14 of discrimination filed with EEOC by Janice Lowell, the EEOC's Letter of Determination, and
 15 the EEOC's complaint and Lowell's complaint in intervention. The EEOC, Labor Ready and
 16 IFA enter into this settlement agreement to further the objectives of equal employment as set
 17 forth in Title VII.

18 **II. NONADMISSION OF LIABILITY AND NONDETERMINATION**
 19 **BY THE COURT**

20 7. This settlement agreement is not an adjudication or finding on the merits of this
 21 case and shall not be construed as an admission by Labor Ready or IFA of a violation of Title
 22 VII. Labor Ready and IFA deny violating any law.

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III. JURISDICTION AND VENUE

8. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized pursuant to Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a. The parties agree that Ms. Lowell was employed by Labor Ready and worked for IFA within the jurisdiction of the United States District Court for the Western District of Washington.

IV. SETTLEMENT SCOPE

9. This settlement agreement is the final and complete resolution of all allegations of unlawful employment practices contained in Janice Lowell's discrimination charges, in the EEOC's administrative determinations, and in the complaints filed herein, including all claims by the parties for attorney's fees and costs. The scope of this agreement shall apply only to the Labor Ready Northwest Empire District, which includes its existing branches in Federal Way, South Seattle, Auburn, Lakewood, Kent, Tacoma, Olympia, Puyallup, Kelso, Vancouver and Centralia, and to IFA's Toledo, Washington facilities.

V. MONETARY RELIEF

10. In settlement of this lawsuit, Labor Ready and IFA agree to pay within 10 business days of signing this agreement the following sum to Janice Lowell: \$36,000. Of this amount Labor Ready shall pay \$23,000 and IFA shall pay \$13,000. Settlement proceeds to Lowell will be handled by her counsel, Donald B. Potter, whose law offices are located at 522 SW Fifth Avenue, Suite 1110, Portland, OR 97204. Labor Ready, IFA and Janice Lowell have negotiated a separate settlement agreement and release to which the EEOC is not a party.

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1 VI. AFFIRMATIVE AND OTHER RELIEF2 A. General Provisions

3 11. Labor Ready, IFA, their respective officers, agents, and employees will enforce
4 their policies that prohibit unlawful discrimination against employees on the basis of gender and
5 prohibit sexual harassment and retaliation. In recognition of their obligations under Title VII,
6 Labor Ready and IFA will maintain policies and practices as set forth below.

7 B. Anti-Discrimination Policies and Procedures

8 12. Labor Ready and IFA shall maintain their anti-discrimination policies, procedures
9 and training on sex discrimination for employees, supervisors and management personnel and
10 will continue to provide equal employment opportunities for all employees, regardless of gender.
11 As an ongoing commitment to Equal Employment Opportunity ("EEO"), Labor Ready and IFA
12 will maintain their current policies of assuring that their respective managers and supervisors
13 fully understand their EEO policies and how those policies define and identify what constitutes
14 employment discrimination on the basis of sex. Labor Ready and IFA shall enforce their policies
15 and procedures as written.

16 13. Within one-hundred-twenty (120) days of the date of the effective date of this
17 Settlement Agreement, Labor Ready and IFA will: (a) review their EEO policies to ensure that
18 they adequately prohibit discrimination against employees on the basis of sex and retaliation
19 with respect to any term, condition or privilege of employment, and address Labor Ready's and
20 IFA's obligations to provide work environments free of sex discrimination for their employees;
21 (b) IFA will distribute, a written copy of its EEO policy to employees, both management and
22 non-management; and (c) Labor Ready will distribute written copies of its EEOC policies to
23 regular current management and non-management employees. Labor Ready and IFA will
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1 provide EEOC with a written copy of their EEO policies as part of their first annual reports as
2 provided in paragraph 20 below.

C. Training

14. Within one-hundred-eighty 180 days of the execution of this agreement, Labor Ready will present to all managers and supervisors within the Northwest Empire District for Labor Ready and IFA will present to all such employees in Toledo, three (3) hours of live training on employment discrimination, including sexual harassment and retaliation. Defendants will present such training to said personnel annually during the duration of this agreement.

10 Further, within 60 days of the employment of a manager or supervisor in the Northwest Empire
11 District for Labor Ready and the Toledo facility for IFA, Defendants will ensure that each of
12 their respective new management personnel will complete a 2 hour online course regarding
13 discrimination including the topics of sexual harassment and retaliation. Non-management
14 employees who participate in personnel decisions, including termination, must also attend these
15 training sessions; processing of applications for temporary assignments at a client's worksite
16 shall not constitute a personnel decision. The EEOC will have an opportunity to review the
17 training materials prior to the training date.

15. Labor Ready and IFA will notify the EEOC of the completion of the training and will specify the names and job titles of the employees who completed the training as part of their annual reports to the EEOC.

D. Expungement of Records

16. Labor Ready and IFA will not disclose any information or make references to any charge of discrimination or this lawsuit in responding to requests for information about Janice Lowell. Labor Ready and IFA will only give out dates of employment and compensation, if

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1 requested, in response to any requests for information regarding Janice Lowell. Janice Lowell
2 shall only direct prospective employers seeking references from Labor Ready to the Employee
3 Verification Department at 1-800-610-8920 ext. 8460.

E. Policies Designed to Promote Supervisor Accountability

6 17. Labor Ready and IFA shall impose appropriate discipline -- up to and including
7 termination of employment, suspension without pay or demotion -- upon any employee who they
8 determine has discriminated against any employee on the basis of gender, or who retaliates
9 against any person who complains or participates in any investigation or proceeding concerning
10 any such conduct. Labor Ready and IFA shall communicate this policy to all of their employees.

11 18. During the annual training hereunder, Labor Ready and IFA shall advise all
12 subject managers and supervisors in the locations specified in paragraph 9 of their duty to
13 actively monitor their work areas to ensure employees' compliance with the company's EEO
14 policy, and to report any incidents or complaints of discrimination or retaliation of which they
15 become aware to Labor Ready's Human Resources Department or IFA's corporate headquarters,
16 as applicable.

18 19. IFA will evaluate its supervisory and management employees subject to this
19
20 agreement pursuant to paragraph 9 on their compliance with IFA's EEO policies. Labor Ready
21 will provide the summary referenced in paragraph 20 (d) to the district manager who shall
21
review the same and assess the branch manager's compliance with EEOC policies.

F. Reporting

24 20. Labor Ready and IFA shall report in writing to the EEOC on an annual basis,
25 beginning twelve months (12) months from the date of the entry of this agreement, and again
26 twelve (12) months thereafter the following information:

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- 1 a. Certification of the completion of three (3) hours of training for managers,
2 supervisors, and non-management employees who participate in the promotion or
hiring process, along with lists of attendees;
- 3 b. Certification that their EEO policies have been distributed to all current and newly
hired employees;
- 4 c. A list of any changes, modifications, revocations or revisions to their EEO
policies and procedures which concern or affect the subject of discrimination.
- 5 d. A summary of internal formal discrimination complaints, if any, submitted to
management or Labor Ready's Human Resources Department by employees
working at Labor Ready in the Northwest Empire District or to management at
IFA's Toledo facility by employees working at the Toledo facility, and the
resolution of each such complaint; and
- 6 e. A statement certifying that the company has complied with the terms of this
Settlement Agreement. If a Defendant has not complied with any term of this
Settlement Agreement, the statement will specify the areas of noncompliance, the
reason for the noncompliance, and the steps taken to bring the Defendant into
compliance.

12 **G. Posting**

13 21. Labor Ready and IFA will post Notices, attached as Exhibits 1-4 to this
14 Settlement Agreement. Both Defendants' Notices shall be posted on a centrally located bulletin
15 board or other place where such notices are normally posted and read by employees during the
16 two (2) year period of this Agreement.

19 **VII. ENFORCEMENT**

20 22. If the EEOC determines that Labor Ready and IFA have not complied with the
21 terms of this Agreement, the EEOC will provide written notification of the alleged breach to the
22 company alleged to be in breach. The EEOC will not petition the court for enforcement of this
23 agreement for at least thirty (30) days after providing written notification of the alleged breach.
24 The 30-day period following the written notice shall be used by the parties for good faith efforts
25 to resolve the dispute.

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VIII. RETENTION OF JURISDICTION

23. The United States District Court for the Western District of Washington shall retain jurisdiction over this matter for the duration of this agreement.

IX. DURATION AND TERMINATION

24. This agreement shall be in effect for two (2) years beginning the day the court enters the order approving this agreement. If the EEOC petitions the court for breach of this settlement agreement, and the court finds either Defendant to be in violation of its terms, the court may extend the duration of this settlement agreement.

X. CONCLUSION

25. The parties are not bound by any provision of this agreement until it is signed by authorized representatives of each party and entered by the court.

Dated this _____ day of _____, 2006.

16 WILLIAM R. TAMAYO
17 Regional Attorney

JAMES L. LEE
Deputy General Counsel

18 A. LUIS LUCERO, JR.
Associate Regional Attorney

GWENDOLYN Y. REAMS
Associate General Counsel

20 KATHRYN OLSON
Supervisory Trial Attorney

Teri Healy
Senior Trial Attorney

BY: _____
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3 Attorneys for Plaintiff
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5 PRESENTED BY: *s/Teri Healy*
6 Teri L. Healy
7 Attorneys for Plaintiff
Equal Employment Opportunity Commission

8 PRESENTED BY: *s/Donald B. Potter*
9 Donald B. Potter, WSBA #14906
Attorney for Plaintiff Intervenor, Janice Lowell

10 PRESENTED BY: *s/M. Edward Taylor*
11 M. Edward Taylor, WSBA #16864
12 Attorney for Defendants, Labor Ready, Inc.
and Labor Ready Northwest, Inc.

13 PRESENTED BY: *s/Scott T. Cliff*
14 Scott T. Cliff, WSBA #37188
15 Attorney for Defendant, IFA Nurscrics, Inc.

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ORDER APPROVING SETTLEMENT AGREEMENT

The Court, having considered the foregoing stipulated agreement of the parties,
HEREBY ORDERS THAT the foregoing settlement agreement be, and the same hereby is,
approved as the final agreement in full settlement of this action. This lawsuit is hereby
dismissed with prejudice and without costs or attorneys' fees to any party. The Court retains
jurisdiction of this matter for purposes of enforcing the settlement agreement approved herein.

DATED this 22nd day of June, 2006.

THE HONORABLE RONALD B. LEIGHTON
UNITED STATES DISTRICT COURT JUDGE